



FSO-225-06

COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

L. Preston Bryant, Jr.
Secretary of Natural Resources

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David K. Paylor
Director

Jeffery A. Steers
Regional Director

STATE AIR POLLUTION CONTROL BOARD ORDER BY CONSENT ISSUED TO Therma Tru Corporation DEQ Air Facility Registration No. 40331

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1307 D, § 10.1-1309 and 10.1-1316 C, between the State Air Pollution Control Board ("SAPCB") and Therma Tru Corporation for the purpose of resolving certain alleged violations of the Air Pollution Control Law and/or regulations as specified in Section C of this Order.

SECTION B: Definitions

Unless the context indicates otherwise, the following words and terms have the meaning assigned to them below:

- "Va. Code" means the Code of Virginia (1950), as amended
- 2 "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184.
- 3 "CFR" means The Code of Federal Regulations.
- 4 "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
- 5 "Director" means the Director of the Department of Environmental Quality.
- 6 "Facility" means Therma Tru Corporation – 3000 Mine Road, Fredericksburg, Virginia (Spotsylvania County).
- 7 "Therma Tru" means Therma Tru Corporation.

- 8 "FSO" means the Fredericksburg Satellite Office of the Northern Virginia Regional Office of DEQ, located in Fredericksburg, Virginia.
9. "VOC" means volatile organic compound
10. "Order" means this document, also known as a Consent Order.
- 1 "Permit" means Federal Operating Permit, which became effective December 1 2003.
12. "Regulations" refers to the Regulations for the Control and Abatement of Air Pollution for the Commonwealth of Virginia.
- 13 "VAC" means Virginia Administrative Code.

SECTION C: Findings of Fact and Conclusions of Law

1. Therma Tru owns and operates the Facility located at 3000 Mine Road, Fredericksburg, Virginia 22408 (Spotsylvania County).
- 2 DEQ issued Therma Tru a Federal Operating Permit on December 1, 2003.
- 3 The DEQ received Therma Tru's Title V Semi-Annual Monitoring Report for the reporting period of January 1, 2006, through June 30, 2006, on September 5, 2006. While processing Therma Tru's Title V Semi-Annual Monitoring Report it was discovered that the facility did not submit their Title V Semi-Annual VOC Report for the period January 1, 2006, through June 30, 2006, in accordance with Title V Permit dated December 1, 2003, Condition III(E).
4. The DEQ issued Therma Tru a Notice of Violation (NOV) on September 29, 2006, for failure to submit their Title V Semi-Annual VOC Report for the period ending June 30, 2006. The Title V Semi-Annual VOC Report was due the Department no later than July 30, 2006.
5. Therma Tru contacted the DEQ via telephone on September 29, 2006, to discuss the NOV. Therma Tru and the DEQ held a meeting on October 4, 2006. During the meeting Therma Tru submitted their Title V Semi-Annual VOC Report for the period ending June 30, 2006. The DEQ processed the Title V Semi-Annual VOC Report on October 10, 2006.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1307 D, §10.1-1309 and § 10.1-1316 C, the Board orders Therma Tru, and Therma Tru voluntarily agrees, to pay a civil charge in the amount of two thousand one hundred forty-seven dollars (\$2,147.00) within 30 days of the effective date of the Order. Payment shall be made by check payable to the "Treasurer of Virginia", delivered to:

Department of Environmental Quality
Receipts Control
Post Office Box 1104
Richmond, Virginia 23218

SECTION E: Administrative Provisions

The Board may modify, rewrite, or amend the Order with the consent of Therma Tru for good cause shown by Therma Tru, or on its own motion after notice and opportunity to be heard.

2. This Order addresses and resolves only those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Therma Tru by DEQ on September 29, 2006. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce this Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities, whether or not arising out of the same or similar facts, for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Therma Tru admits the jurisdictional allegations contained herein. Therma Tru neither admits nor denies the specific factual allegations and conclusions of law contained herein
4. Therma Tru consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Therma Tru declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 *et seq.*, and the State Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.

6. Failure by Therma Tru to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

8. Therma Tru shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or other such circumstance. Therma Tru must show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Therma Tru shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Order. Such notice shall set forth:

- a. The reasons for the delay or noncompliance;
- b. The projected duration of any such delay or noncompliance;
- c. The measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. The timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Therma Tru. Notwithstanding the foregoing, Therma Tru agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Therma Tru. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Therma Tru from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, Therma Tru voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 16 day of December, 2006.


Jeffery A. Steers, NVRO Regional Director
Department of Environmental Quality

Therma Tru Corporation voluntarily agrees to the issuance of this Order.

By: 

Title: VP of Supply Chain

Date: 12/6/06

State of Oklahoma
~~Commonwealth of Virginia~~

City/County of Okland, Ok

The foregoing document was signed and acknowledged before me this 16 day of

December, 2006, by David McDonald, who is
(name)

VP of Supply Chain of Therma Tru Corporation, on behalf of Therma Tru Corporation.
(title)


Notary Public

My commission expires: 7/30/07

